

50th Annual Report 2019

Michigan Law Revision Commission

JANE O. WILENSKY, *Executive Secretary*

Term Members:

RICHARD D. MCLELLAN,
Chairperson

ANTHONY DEREZINSKI,
Vice Chairperson

BRIAN A. LAVICTOIRE

GEORGE E. WARD

Legislative Members:

SENATOR STEPHANIE CHANG

SENATOR PETER J. LUCIDO

REPRESENTATIVE RYAN BERMAN

REPRESENTATIVE BRIAN K. ELDER

Ex Officio Member:

JENNIFER DETTLOFF

Legislative Council Administrator

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Lansing, Michigan 48909-7536



Michigan
Law Revision Commission

FIFTIETH ANNUAL REPORT
2019

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**This report may be downloaded from the Commission’s Internet website,
<http://council.legislature.mi.gov/mlrc.html>**

MICHIGAN LAW REVISION COMMISSION
FIFTIETH ANNUAL REPORT TO THE LEGISLATURE
FOR CALENDAR YEAR 2019

To the Members of the Michigan Legislature:

The Michigan Law Revision Commission hereby presents its fiftieth annual report pursuant to section 403 of Act No. 268 of the Public Acts of 1986, MCL § 4.1403.

The Commission, created by section 401 of Act No. 268 of the Public Acts of 1986, MCL § 4.1401, consists of two members of the Senate, with one from the majority and one from the minority party, appointed by the Majority Leader of the Senate; two members of the House of Representatives, with one from the majority and one from the minority party, appointed by the Speaker of the House; the Director of the Legislative Service Bureau or his or her designee, who serves as an ex officio member; and four members appointed by the Legislative Council. The terms of the members appointed by the Legislative Council are staggered. The Legislative Council designates the Chair of the Commission. The Vice Chair is elected by the Commission.

Membership

The legislative members of the Commission during 2019 were Senator Peter J. Lucido of Shelby Township; Senator Stephanie Chang of Detroit; Representative Ryan Berman of Commerce Township; and Representative Brian K. Elder of Bay City. Legislative Council Administrator Jennifer Dettloff has been the ex officio member of the Commission since November 9, 2016. The appointed members of the Commission were Richard D. McLellan, Anthony Derezinski, Brian A. LaVictoire, and George E. Ward. Mr. McLellan served as Chairperson and Mr. Derezinski served as Vice Chairperson. Jane O. Wilensky served as Executive Secretary. Brief biographies of the Commission members and staff are located at the end of this report.

The Commission's Work in 2019

The Commission is charged by statute with the following duties:

1. To examine the common law and statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and to recommend needed reform.
2. To receive and consider proposed changes in law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, any bar association, and other learned bodies.
3. To receive and consider suggestions from justices, judges, legislators and other public officials, lawyers, and the public generally as to defects and anachronisms in the law.
4. To recommend such changes in the law as it deems necessary in order to modify or eliminate antiquated and inequitable rules of law, and to bring the civil and criminal law of this state into harmony with modern conditions.
5. To encourage the faculty and students of the law schools of this state to participate in the work of the Commission.
6. To cooperate with the law revision commissions of other states and Canadian provinces.
7. To issue an annual report.

The problems to which the Commission directs its studies are largely identified through an examination by the Commission members and the Executive Secretary of the statutes and case law of Michigan, the reports of learned bodies and commissions from other jurisdictions, and legal literature. Other subjects are brought to the attention of the Commission by various organizations and individuals, including members of the Legislature.

The Commission's efforts during the year have been devoted primarily to three areas. First, Commission members provided information to legislative committees related to various proposals previously recommended by the Commission. Second, the Commission examined suggested legislation proposed by various groups involved in law revision activity. These proposals included legislation advanced by the Council of State Governments, the National Conference of Commissioners on Uniform State Laws, and the law revision commissions of various jurisdictions within and outside the United States. Finally, the Commission considered various problems relating to special aspects of current Michigan law suggested by its own review of Michigan decisions and the recommendations of others.

As in previous years, the Commission studied various proposals that did not lead to legislative recommendations. In the case of certain uniform or model acts, the Commission sometimes found that the subjects treated had been considered by the Michigan Legislature in recent legislation and, therefore, did not recommend further action. In other instances, uniform or model acts were not pursued because similar legislation was currently pending before the Legislature upon the initiation of legislators having a special interest in the particular subject.

Proposals for Legislative Consideration in 2019

In addition to its new recommendations, the Commission recommends favorable consideration of the following recommendations of past years upon which no final action was taken in 2019:

- (1) Codifying Michigan Choice-of-Law Rules, 2018 Annual Report, page 6.
- (2) Revisions to Michigan's Freedom of Information Act, 2017 Annual Report, page 4.
- (3) Driver's Licenses, State IDs, and Michigan Immigrants, 2015-2016 Annual Report, page 59.
- (4) Creation of a New Cyber Business Court, 2015-2016 Annual Report, page 70.
- (5) Enhance Licensure of International Corporate Lawyers in Michigan, 2012-2013 Annual Report, page 6.
- (6) Updating the Open Meetings Act, 2012-13 Annual Report, page 18.
- (7) Use of Technology to Conduct Government Meetings, 2003 Annual Report, page 9.
- (8) Governor's Power to Remove Public Officials from Office, 2003 Annual Report, page 21.
- (9) Immunity for Court-Appointed Psychologists, 2000 Annual Report, page 84.
- (10) Pre-Dispute, Contractual Venue Selection Clauses, 1998 Annual Report, page 203.
- (11) Uniform Unincorporated Nonprofit Associations Act, 1997 Annual Report, page 144.
- (12) Prison Mailbox Rule, 1997 Annual Report, page 137.

- (13) Uniform Conflict of Laws—Limitations Act, 1997 Annual Report, page 151.
- (14) E-Mail and the Freedom of Information Act, 1997 Annual Report, page 133.
- (15) Uniform Putative and Unknown Fathers Act, 1994 Annual Report, page 117.
- (16) Motorcycles and the No-Fault Insurance Act, 1993 Annual Report, page 131.
- (17) Tortfeasor Contribution under MCL 600.2925a(5), 1992 Annual Report, page 21.
- (18) International Commercial Arbitration, 1991 Annual Report, page 31.
- (19) Uniform Contribution Among Joint Tortfeasors Act, 1991 Annual Report, page 19.
- (20) Uniform Statutory Rule Against Perpetuities, 1990 Annual Report, page 41.
- (21) Standardization of Condemnation Powers Provisions, 1989 Annual Report, page 15.
- (22) Consolidated Receivership Statute, 1988 Annual Report, page 72.

Current Study Agenda

Topics on the current study agenda of the Commission are:

- (1) Criminal Misconduct in Office.

The Commission continues to operate with its sole staff member, the part-time Executive Secretary. The current Executive Secretary of the Commission is Jane O. Wilensky, who was responsible for the publication of this report. By using faculty members at several Michigan law schools as consultants and law students as researchers, the Commission has been able to operate on a budget substantially lower than that of similar commissions in other jurisdictions. At the end of this report, the Commission provides a list of more than 120 Michigan statutes passed since 1967 upon the recommendation of the Commission.

The Office of the Legislative Council Administrator handles the administrative functions and fiscal operations of the Commission under procedures established by the Legislative Council.

The Commission continues to welcome suggestions for improvement of its program and proposals.

Respectfully submitted,

Richard D. McLellan, Chairperson
Anthony Derezinski, Vice Chairperson
Brian A. LaVictoire
George E. Ward
Senator Stephanie Chang
Senator Peter J. Lucido
Representative Ryan Berman
Representative Brian K. Elder
Jennifer Dettloff

**REPORT REGARDING THE CRIMINALIZATION OF DECISIONS BY STATE OFFICIALS
AND RECOMMENDATION THAT THE LEGISLATURE ENACT A STATUTE REGARDING
MISCONDUCT IN PUBLIC OFFICE**

In 2017, in response to actions of high-ranking state officials dealing with matters involving the Flint water crisis, criminal prosecutions were brought against state officials alleging, among other charges, criminal misconduct in office, a common law crime. Bringing criminal charges against high-ranking state officials is rare, and these unprecedented actions were criticized by many for both the harm caused to the officials individually as well as state government in general.

Richard McLellan, Chair of this Commission, wrote: “We must recognize - and the attorney general does not - that in our highly regulated, complex state government, evidence can be uncertain, good faith mistakes can be made, judgments can be wrong, and people can be injured or even die because of a bad government decision. But Michigan public officials must be able to make decisions and sometimes take risks that prove to be wrong.” (Crain’s Detroit Business, “Don’t criminalize state decisions”, July 1, 2018).

Maura Corrigan, former Chief Justice of the Michigan Supreme Court and former director of the Michigan Department of Health and Human Services, offered her “unique perspective on public policy, the law and service to the people of Michigan.” Justice Corrigan was clear that the facts of the Flint water crisis are “truly tragic”, but expressed her belief that “[i]t’s also tragic to file felony charges against people who have served the public honorably and with distinction and have done their best with the information and facts available to them at one point in time.” (Article, Maura Corrigan: Nick Lyon, charged in Flint water crisis, has served state with honor, Detroit Free Press, August 25, 2017).

Former Attorney General Frank Kelley commented that the “unjustified” charges will result in “show trials and finger-pointing press conference[s]” that will have a “chilling effect on attracting good employees to state government.” (Article, “Frank Kelley: ‘Mr. Attorney General, drop these charges against Nick Lyon’”, Detroit Free Press, Aug. 27, 2017)

Criminal misconduct in office is a felony at common law and prohibited by MCL 750.505, which reads as follows:

“Any person who shall commit any indictable offense at the common law, for the punishment of which no provision is expressly made by any statute of this state, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine of not more than \$10,000.00, or both in the discretion of the court.”

The elements of criminal misconduct in office are:

1. A public officer
2. Willfully (through “deliberate forbearance” with “corrupt behavior” meaning a “sense of depravity, perversion or taint”)
3. Engages in corrupt behavior while acting under color of the public office. See *People v Coutu*, 459 Mich 348, 354; 589 NW2d 458, 461 (1999).

In dicta, the Michigan Court of Appeals has implied that misconduct in office requires violating a law and not merely an ethical code or department guidelines, such as the Code of Judicial Conduct. See *People v Waterstone*, 296 Mich App 121, 144; 818 NW2d 432, 444 (2012).

Prosecutors may bring charges of common law offenses unless punishment for the offense is otherwise expressly provided for by statute. Charges brought under MCL 750.505 will be dismissed if the charge “sets forth all the elements of [a] statutory offense...”. *People v Waterstone, Id.*, citing *People v Thomas*, 438 Mich 448, 453; 475 NW2d 288 (1991).

The duties of the Michigan Law Revision Commission include examining the common law and statutes of this state to discover defects and anachronisms in the law and recommend needed reforms. MCL 4.1403(1)(a). Criminal misconduct in office is a felony at common law and prohibited by MCL 750.505. It is time to consider codifying the common law crime of misconduct in office to give clear notice of the conduct that constitutes the elements of this offense.

Recommendation

The Commission recommends that the Legislature consider enacting a statute to codify the common law crime of misconduct in office. An example of a statute is provided.

EXAMPLE OF A STATUTE RE: MISCONDUCT IN PUBLIC OFFICE

Misconduct in Public Office

Any public officer who does any of the following is guilty of a felony:

1. Willfully fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the officer's or employee's office or employment within the time or in the manner required by law; or
2. In the officer's capacity as such officer, does an act which the officer knows is in excess of the officer's lawful authority or which the officer knows the officer is forbidden by law to do in the officer's official capacity; or
3. Whether by act of commission or omission, in the officer's capacity as such officer exercises a discretionary power in a manner inconsistent with the duties of the officer's office or the rights of others with the intent to obtain a dishonest advantage for the officer or another; or
4. In the officer's capacity as such officer, makes an entry in an account or record book or return, certificate, report or statement which in a material respect the officer intentionally falsifies; or
5. Under color of the officer's office, intentionally solicits or accepts for the performance of any service or duty anything of value which the officer knows is greater or less than is fixed by law.
6. As used in this section, the following elements must be met for a person to constitute a "public officer":
 - a. The position must have been created by the constitution or by the legislature or created by a municipality or other body through authority conferred by the legislature.
 - b. The position must possess a delegation of a portion of the sovereign power of government, to be exercised for the benefit of the public.
 - c. The powers conferred, and the duties to be discharged, must be defined, directly or impliedly, by the legislature or through legislative authority.
 - d. The duties of the position must be performed independently and without control of a superior power other than the law, unless they be those of an inferior or subordinate office, created or authorized by the legislature, and by it placed under the general control of a superior officer or body.
 - e. The position must have some permanency and continuity, and not be only temporary or occasional.

2019 REPORT ON RECENT COURT DECISIONS IDENTIFYING STATUTES
FOR LEGISLATIVE ACTION AND
RECOMMENDATIONS TO THE LEGISLATURE

As part of its statutory charge to examine recent judicial decisions to discover defects and anachronisms in the law and to recommend needed reforms, the Michigan Law Revision Commission undertook a review of Michigan Supreme Court and Court of Appeals decisions issued from January 1 through December 31, 2019 urging legislative action. That review identified six decisions for which the Commission recommends action in three cases and makes no recommendations in three cases. The decisions examined by the Commission are:

1. *In re: MGR*, 504 Mich 852 (2019)
2. *People v Willis*, 504 Mich 905 (2019)
3. *People v Cameron*, 504 Mich 927 (2019)
4. *In re: Rippy*, 330 Mich App 350 (2019)
5. *Johnson v Ziyadeh*, 2019 Mich App LEXIS 2477 (2019), No. 340866
6. *Cooper v Trinity Health-Michigan*, 2019 Mich App LEXIS 231 (2019), No. 337702

1. The proper order for handling proceedings under the Adoption Code and proceedings subsequently filed under the Paternity Act. *In re MGR, 504 Mich 852 (2019)*.

Background

This case involves decisions by the trial court that stayed petitioners’ adoption proceedings until a subsequently-filed paternity action was resolved. On June 9, 2016, petitioners filed a petition for adoption. On July 15, 2016, respondent-father filed a paternity action. The Supreme Court held that, in this matter, the trial court should have stayed the paternity action pending conclusion of the adoption proceedings, instead of staying the adoption proceedings pending conclusion of the paternity action. The majority held that “proceedings under the Adoption Code should, in general, take precedence over proceedings under the Paternity Act.” Justice Viviano did not agree with the majority’s conclusions and dissented.

In a footnote, the Court agreed with Justice Viviano that the Court of Appeals admirably had to balance the competing rights, interests, and responsibilities of the parties under two separate statutes, and, while emphasizing that the decision in this case was based upon the specific facts presented, agreed with Justice Viviano that “the Legislature’s input on this question would be helpful.”

Question Presented

What is the proper order for handling proceedings filed under the Adoption Code and Paternity Act?

Recommendation

The Commission recommends legislative review of this issue but makes no recommendation of specific legislative action.

2. The age of consent in the child sexual abuse statutory scheme. *People v. Willis*, 504 Mich 905 (2019).

Background

In its Order denying defendants’ application for leave to appeal, the Supreme Court took the opportunity to bring an issue presented in this case to the attention of the Legislature. At issue was MCL 750.145c(2), which criminalizes child sexually abusive activity and child sexually abusive material. Under the statute, a “child” is defined as “a person who is less than 18 years of age...” and “listed sexual act[s]” include “sexual intercourse” and more.

Subsection (2) imposes criminal liability on three groups of individuals. In the first, a person must act “for the purpose of producing any child sexually abusive material” to violate the statute. In the other two groups, the person must act in an effort to facilitate “child sexually abusive activity *or* child sexually abusive material...” MCL 750.145c(2). The use of the word “or” in stating that a person must act in an effort to facilitate “child sexually abusive activity *or* child sexually abusive material” indicates that the Legislature intended to not only criminalize efforts to produce child sexually abusive material, but also efforts to engage in child sexually abusive activity. To show the expansive, and perhaps unintended, breadth of the Act, the Court considered the example of “an 18-year-old and 17-year-old couple who discuss engaging in sexual intercourse after their high school prom.” Since “sexual intercourse” is a “listed sexual act” under MCL 750.145(c)(1)(i), the 18-year-old could be convicted of a felony punishable by not more than 25 years because he or she “arrange[d] for child sexually abusive activity” with a person under 18 years old.

The Court noted that the defendant raised a reasonable argument that MCL 750.145c(2) effectively elevates the age of consent in Michigan from 16 years old to 18 years old. This essentially nullifies MCL 750.520b and MCL 750.520e, which state that the age of consent under the criminal sexual conduct statutes is 16 years old. The Court notes that the statute may be read to criminalize conduct that is otherwise permissible under the criminal sexual conduct scheme, and concludes that “the Legislature may, or may not, wish to assess these concerns and possibly clarify and harmonize our child sexual abuse statutory scheme.”

Question Presented

Should the Legislature review the provisions of MCL 750.145c(2) and clarify and harmonize Michigan’s child sexual abuse statutory scheme?

Recommendation

The Commission recommends legislative review of this issue but makes no recommendation of specific legislative action.

3. Court imposed fines under the Code of Criminal Procedure. *People v. Cameron*, 504 Mich 927 (2019).

Background

In its Order denying the application for leave to appeal, Chief Justice McCormack wrote a separate concurrence, which was joined by Justice Bernstein, to express her concerns about the constitutionality of MCL 769.1k(1)(b)(iii). Her concerns were prompted by information submitted by *amicus curiae* Michigan District Judges Association (MDJA) that describe pressures district judges face to ensure that their courts are well funded. The MDJA argues that the statute creates a conflict of interest by shifting the burden of court funding onto the courts themselves, which, as a consequence, may incentivize courts to convict as many defendants as possible in order to raise revenues.

The Chief Justice acknowledged the potential constitutional problems raised by the MDJA, but noted that the issues had not been specifically presented in the case so the record was not sufficiently developed to address the concerns. The Chief Justice noted, however, that the interim report of the Trial Court Funding Commission addresses this issue and urged the Legislature to seriously consider the recommendations of the Commission “before the pressure placed on local courts causes the system to boil over.”

Question Presented

Should the Legislature review MCL 769.1k(1)(b)(iii) for possible conflict of interest, and review and consider the recommendations in the interim report of the Trial Court Funding Commission?

Recommendation

The Commission recognizes the urgency of this issue and notes that the Final Report of the Trial Court Funding Commission was issued on September 6, 2019.

https://www.michigan.gov/documents/treasury/TCFC_Final_Report_9-6-2019_665923_7.pdf.

The Commission recommends that the Legislature review this issue and consider the recommendations in this Report.

4. Mother’s prenatal conduct in relation to termination of parental rights. *In re Rippy*, 330 Mich App 350 (2019).

Background

This appeal followed the trial court’s termination of respondent’s parental rights for her child, LR. The Department of Health and Human Services sought termination of respondent’s parental rights under MCL 722.638, alleging that LR suffered severe physical abuse because of her excessive alcohol consumption while pregnant. As a result, LR was born with many medical issues characteristic of fetal alcohol syndrome (FAS). Under MCL 712A.19a(2), reasonable efforts must be made to reunify the child and family in all cases except those involving aggravated circumstances. The court found that respondent’s admission that she drank alcohol throughout her pregnancy and LR’s FAS symptoms constituted “aggravated circumstances.”

Judge Beckering dissented, reasoning that under interpretation of applicable statutes and Supreme Court precedent, the trial court erred in terminating respondent’s parental rights without the DHHS making reasonable efforts for unification. Under MCL 712A.19a(2), reasonable efforts at reunification must be made in all cases except when there is a “judicial determination that the parent has subjected the child to aggravated circumstances” as provided in MCL 722.638. Under MCL 722.638(1)(a), “aggravated circumstances” include a determination that a parent “has abused the child”; however Judge Beckering noted that the “Legislature has not expressly defined ‘child’ to include an embryo or fetus for purposes of the statutes governing the termination of parental rights or child protection.” Believing that the Court may not accomplish by judicial amendment that which the Legislature has not expressly intended, Judge Beckering, in footnote 12, commented that “it may be time for the Legislature to consider whether a parent’s prenatal conduct can result in injuries that constitute aggravated circumstances for purposes of MCL 722.638 and MCL 712A.19a(2).”

Question Presented

Can a mother’s prenatal conduct constitute an “aggravated circumstance” under MCL 722.638 and MCL 712A.19a(2)?

Recommendation

The Commission recommends legislative review of this issue but makes no recommendation of specific legislative action.

5. The necessity of the “locality rule.” *Johnson v. Ziyadeh*, 2019 Mich App. LEXIS 2477 (2019).

Background

The plaintiff was treated by Dr. Ziyadeh for a tooth extraction. Plaintiff alleged that Dr. Ziyadeh broke her tooth and damaged her lingual nerve during the extraction, and as a result, plaintiff lost sensation in the right half of her tongue. Plaintiff sued defendants, alleging that Dr. Ziyadeh had committed medical malpractice during the procedure. Specifically, plaintiff alleged that Dr. Ziyadeh breached the applicable standard of care in performing the extraction.

In support of her claim, plaintiff identified Dr. Alan Kelman as her testifying expert. In Dr. Kelman’s deposition, he testified that he did not have specific knowledge of Dr. Ziyadeh’s practice, that he had never been to Michigan, and that he did not know the last time he interacted with a Michigan dentist. In response to Dr. Kelman’s deposition, defendants moved for summary judgment. Defendants contended that the plaintiff lacked a standard-of-care expert, so her claim could not stand. The plaintiff argued that Dr. Kelman met the “locality rule” for standard-of-care testimony.

The trial court granted defendants’ motion for summary disposition. The trial court concluded that Dr. Kelman could not testify that his practice was similar to Dr. Ziyadeh’s and, therefore, could not speak to the standard of care in Wayne County.

In an unpublished *per curiam* opinion, the Court of Appeals agreed with the trial court that Dr. Kelman did not satisfy the “locality rule.” MCL 600.2912a. Under the locality rule, “the standard of care for general practitioners is that of the local community or similar communities.” *Bahr v. Harper-Grace Hospitals*, 448 Mich 135, 138 (1995). See, also, *Craig v. Oakwood Hospital*, 471 Mich 67, 86 (2004). The parties did not dispute that Dr. Ziyadeh was a general practitioner, therefore, the locality rule applied. In concluding that Dr. Kelman did not qualify as an expert under this rule, the Court of Appeals found that he did not practice in a community similar to Dr. Ziyadeh’s and was not familiar with Wayne County or the surrounding area.

Judge Krause concurred with the decision but wrote separately because she believes that the locality rule has little relevance today, finding it “inconceivable” that there could be regional variance in the standard of care for a tooth extraction. Instead, Judge Krause believes that the locality rule is a remnant of common law practices that is no longer needed as the divide between urban and rural practices has become increasingly obsolete. While Judge Krause acknowledged that the locality rule was law and must be followed, she “encourage[d] the Legislature to reconsider whether the “locality rule” remains valuable for anything other than pure gamesmanship.”

Question Presented

Should the Legislature revise or repeal the “locality rule” found in MCL 600.2912a?

Recommendation

The Commission recommends that the Legislature repeal or, based on the information provided, revise “the locality rule” found in MCL 600.2912a.

6. Reliance on affidavits submitted by experts when litigation is filed to support a motion for summary disposition brought after discovery. *Cooper v. Trinity Health-Michigan*, 2019 Mich App. LEXIS 231 (2019).

Background

Plaintiff was referred to Dr. Franklin after suddenly losing hearing in her right ear. Dr. Franklin prescribed an anticoagulant, Lovenox. Dr. Franklin later diagnosed plaintiff with thrombophilia and patent foramen ovale (PFO). After undergoing surgery for the PFO, plaintiff was prescribed another anticoagulant. Plaintiff was subsequently diagnosed with a hematoma and ordered to receive no additional injections on her right side. Because of the hematoma, plaintiff had to undergo surgery and suffered nerve damage in her right lower extremity. Plaintiff consulted another doctor, who concluded that plaintiff did not have any kind of hypercoagulable diagnoses. Plaintiff then filed her medical malpractice complaint against the defendants. Specifically, the plaintiff alleged that Dr. Franklin misdiagnosed her with hypercoagulable conditions and prescribed medications for a disease she did not have.

Dr. Franklin contended that his treatment followed the applicable standard of care and was not the proximate cause of plaintiff's injuries. The defendants moved for summary disposition, contending that the hematoma was actually caused by an unauthorized intramuscular injection of Arixtra by a nurse at the hospital. In granting the defendants' motion, the trial court found that plaintiff did not explain the causal connection between Dr. Franklin's treatment and the hematoma.

In an unpublished *per curiam* opinion, the Court of Appeals reversed the trial court's decision. The Court relied on an affidavit of merit submitted by the plaintiff when the lawsuit was filed from Dr. Leon Landau, which concluded that the defendants' actions violated the applicable standard of care when Dr. Franklin misdiagnosed plaintiff and prescribed medications that resulted in the plaintiff's hematoma and nerve damage. Viewing that evidence in the light most favorable to the plaintiff as the non-moving party, the Court found that it indicated the hematoma was already present prior to the unauthorized injection.

Judge Tukel concurred but wrote separately to emphasize a procedural issue "which might warrant consideration by the Legislature," specifically, whether a plaintiff may rely solely on an affidavit of merit filed at the beginning of a lawsuit to support a motion for summary disposition brought after discovery. Judge Tukel notes that Dr. Landau's affidavit was filed at the same time as plaintiff's complaint, as required under MCL 600.2912d(1). While the court is required to consider this affidavit in ruling on a motion for summary disposition, as required by MCR 2.116(G)(5), Judge Tukel questions if the Legislature should require a "fresh" affidavit that takes into consideration facts learned through discovery. Doing so would require an expert to reconsider the opinions expressed in their affidavit of merit and see if they hold true following discovery. Judge Tukel states that this change in policy could be effectuated either through legislation or amending MCR 2.116(G)(5).

Question Presented

Should an expert who has provided an affidavit of merit under MCL 600.2912d(1) be required to submit a subsequent affidavit at the summary disposition phase, MCR 2.116(G)(5), that considers additional materials revealed through discovery?

Recommendation

The Commission makes no recommendation of specific legislative action, rather, the Commission recommends that the Supreme Court consider modification or expansion of the relevant court rule.

PRIOR ENACTMENTS PURSUANT TO
MICHIGAN LAW REVISION COMMISSION RECOMMENDATIONS

The following Acts have been adopted to date pursuant to recommendations of the Commission and in some cases amendments thereto by the Legislature:

1967 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Original Jurisdiction of Court of Appeals	1966, p. 43	65
Corporation Use of Assumed Names	1966, p. 36	138
Interstate and International Judicial Procedures	1966, p. 25	178
Stockholder Action Without Meetings	1966, p. 41	201
Powers of Appointment	1966, p. 11	224
Dead Man's Statute	1966, p. 29	263

1968 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Possibilities of Reverter and Right of Entry	1966, p. 22	13
Stockholder Approval of Mortgage of Corporate Assets	1966, p. 39	287
Corporations as Partners	1966, p. 34	288
Guardians Ad Litem	1967, p. 53	292
Emancipation of Minors	1967, p. 50	293
Jury Selection	1967, p. 23	326

1969 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Access to Adjoining Property	1968, p. 19	55
Recognition of Acknowledgments	1968, p. 64	57
Dead Man's Statute Amendment	1966, p. 29	63
Notice of Change in Tax Assessments	1968, p. 30	115
Antenuptial and Marital Agreements	1968, p. 27	139
Anatomical Gifts	1968, p. 39	189
Administrative Procedures Act	1967, p. 11	306
Venue for Civil Actions	1968, p. 17	333

1970 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Land Contract Foreclosures	1967, p. 55	86
Artist-Art Dealer Relationships	1969, p. 41	90
Minor Students' Capacity to Borrow Act	1969, p. 46	107
Warranties in Sales of Art	1969, p. 43	121
Appeals from Probate Court	1968, p. 32	143
Circuit Court Commissioner Powers of Magistrates	1969, p. 57	238

1971 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Revision of Grounds for Divorce	1970, p. 7	75
Civil Verdicts by 5 of 6 Jurors in Retained Municipal Courts	1970, p. 40	158
Amendment of Uniform Anatomical Gift Act	1970, p. 45	186

1972 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Summary Proceeding for Possession of Premises	1970, p. 16	120
Interest on Judgments	1969, p. 59	135
Business Corporations	1970, Supp.	284
Constitutional Amendment re Juries of 12	1969, p. 60	HJR "M"

1973 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Execution and Levy in Proceedings Supplementary to Judgment	1970, p. 51	96
Technical Amendments to Business Corporation Act	1973, p. 8	98

1974 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Venue in Civil Actions Against Non-Resident Corporations	1971, p. 63	52
Choice of Forum	1972, p. 60	88
Extension of Personal Jurisdiction in Domestic Relations Cases	1972, p. 53	90
Technical Amendments to the Michigan General Corporations Act	1973, p. 37	140
Technical Amendments to the Revised Judicature Act	1971, p. 7	297
Technical Amendments to the Business Corporation Act	1974, p. 30	303
Amendment to Dead Man's Statute	1972, p. 70	305
Attachment and Collection Fees	1968, p. 22	306
Contribution Among Joint Tortfeasors	1967, p. 57	318
District Court Venue in Civil Actions	1970, p. 42	319
Due Process in Seizure of a Debtor's Property (Elimination of Pre-Judgment Garnishment)	1972, p. 7	371

1975 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Hit-Run Offenses	1973, p. 54	170
Equalization of Income Rights of Husband and Wife in Entirety Property	1974, p. 12	288
Disposition of Community Property Rights at Death	1973, p. 50	289
Insurance Policy in Lieu of Bond	1969, p. 54	290
Child Custody Jurisdiction	1969, p. 23	297

1976 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Due Process in Seizure of a Debtor's Property (Replevin Actions)	1972, p. 7	79
Qualifications of Fiduciaries	1966, p. 32	262
Revision of Revised Judicature Act Venue Provisions	1975, p. 20	375
Durable Family Power of Attorney	1975, p. 18	376

1978 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Juvenile Obscenity	1975, p. 133	33
Multiple Party Deposits	1966, p. 18	53
Amendment of Telephone and Messenger Service Company Act	1973, p. 48	63
Elimination of References to Abolished Courts:		
a. Township Bylaws	1976, p. 74	103
b. Public Recreation Hall Licenses	1976, p. 74	138
c. Village Ordinances	1976, p. 74	189
d. Home Rule Village Ordinances	1976, p. 74	190
e. Home Rule Cities	1976, p. 74	191
f. Preservation of Property Act	1976, p. 74	237
g. Bureau of Criminal Identification	1976, p. 74	538
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i. Election Law Amendments	1976, p. 74	540
j. Charter Townships	1976, p. 74	553
Plats	1976, p. 58	367
Amendments to Article 9 of the Uniform Commercial Code	1975, Supp.	369

1980 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Condemnation Procedures	1968, p. 8	87
Technical Revision of the Code of Criminal Procedure	1978, p. 37	506

1981 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Elimination of Reference to the Justice of the Peace: Sheriff's Service of Process	1976, p. 74	148
Court of Appeals Jurisdiction	1980, p. 34	206

1982 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Limited Partnerships	1980, p. 40	213
Technical Amendments to the Business Corporation Act	1980, p. 8	407

Interest on Probate Code Judgments	1980, p. 37	412
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1983 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
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Elimination of References to Abolished Courts:		
Police Courts and County Board of Auditors	1979, p. 9	87
Federal Lien Registration	1979, p. 26	102

1984 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
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Legislative Privilege:		
a. Immunity in Civil Actions	1983, p. 14	27
b. Limits of Immunity in Contested Cases	1983, p. 14	28
c. Amendments to Revised Judicature Act for Legislative Immunity	1983, p. 14	29
Disclosure of Treatment Under the Psychologist/Psychiatrist- Patient Privilege	1978, p. 28	362

1986 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
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Amendments to the Uniform Limited Partnership Act	1983, p. 9	100
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1987 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
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Amendments to Article 8 of the Uniform Commercial Code	1984, p. 97	16
Disclosure in the Sale of Visual Art Objects Produced in Multiples	1981, p. 57	40, 53, 54

1988 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Repeal of M.C.L. § 764.9	1982, p. 9	113
Statutory Rule Against Perpetuities	1986, p. 10	417, 418
Transboundary Pollution		
Reciprocal Access to Courts	1984, p. 71	517

1990 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Elimination of Reference to Abolished Courts:		
a. Procedures of Justice Courts and Municipal Courts	1985, p. 12; 1986, p. 125	217
b. Noxious Weeds	1986, p. 128; 1988, p. 154	218
c. Criminal Procedure	1975, p. 24	219
d. Presumption Concerning Married Women	1988, p. 157	220
e. Mackinac Island State Park	1986, p. 138; 1988, p. 154	221
f. Relief and Support of the Poor	1986, p. 139; 1988, p. 154	222
g. Legal Work Day	1988, p. 154	223
h. Damage to Property by Floating Lumber	1988, p. 155	224

1991 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Elimination of Reference to Abolished Courts:		
a. Land Contracts	1988, p. 157	140
b. Insurance	1988, p. 156	141
c. Animals	1988, p. 155	142
d. Trains	1986, pp. 153, 155; 1987, p. 80; 1988, p. 152	143
e. Appeals	1985, p. 12	144
f. Crimes	1988, p. 153	145
g. Library Corporations	1988, p. 155	146
h. Oaths	1988, p. 156	147
i. Agricultural Products	1986, p. 134; 1988, p. 151	148
j. Deeds	1988, p. 156	149
k. Corporations	1989, p. 4; 1990, p. 4	150
l. Summer Resort Corporations	1986, p. 154; 1988, p. 155	151
m. Association Land	1986, p. 154; 1988, p. 155	152
n. Burial Grounds	1988, p. 156	153
o. Posters, Signs, and Placecards	1988, p. 157	154

p. Railroad Construction	1988, p. 157; 1988, p. 156	155
q. Work Farms	1988, p. 157	156
r. Recording Duties	1988, p. 154	157
s. Liens	1986, pp. 141, 151, 158; 1988, p. 152	159

1992 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Determination of Death Act	1987, p. 13	90

1993 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Condemnation Procedures of Home Rule Villages	1989, p. 17	32
Condemnation Procedures Regarding Railroads	1989, p. 25	354
Condemnation Procedures Regarding Railroad Depots	1989, p. 26	354

1995 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Condemnation Procedures Regarding Inland Lake Levels	1989, p. 24	59
Condemnation Procedures of School Districts	1989, p. 24	289

1996 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Felony Murder and Arson	1994, p. 179	20, 21

1998 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Condemnation Procedures of General Law Villages	1989, p. 16	254
Repeal of Article 6 of the Uniform Commercial Code	1994, p. 111; 1997, p. 131	489
Uniform Fraudulent Transfer Act	1988, p. 13	434
Uniform Trade Secrets Act	1993, p. 7	448
Revisions to Lemon Law (recommendation to include leased vehicles)	1995, p. 7	486

2002 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Guilty but Mentally Ill - Burden of Proof	2000, p. 85	245

2003 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Anatomical Gifts	1993, p. 53	62, 63

2004 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Governor's Power to Remove Public Officials from Office (recommendation on school board and intermediate school board members)	2003, p. 21	234

BIOGRAPHIES OF COMMISSION MEMBERS AND STAFF

RICHARD D. McLELLAN

Richard D. McLellan is Chair of the Michigan Law Revision Commission, a position he has filled since 1986 following his appointment as a public member of the Commission in 1985.

McLellan is a practicing attorney and business consultant in Lansing, Michigan. In 2007, Mr. McLellan retired as a lawyer with the law firm of Dykema Gossett PLLC where he served as the Member-in-Charge of the firm's Lansing Office and as the leader of the firm's Government Policy Department.

He is a member of the Board of Directors of ITC Holdings (NYSE: ITC) and is an Independent Trustee of the JNL Series Trust, a \$50 billion variable annuity fund managed by the Jackson National Life Insurance Company. He also serves as Chairman of Africa Continental Holdings, LLC.

By appointment of the Supreme Court, Mr. McLellan served two terms as a Member of the Board of Commissioners of the State Bar of Michigan.

Mr. McLellan started his career as an administrative assistant to Governor William G. Milliken and as Acting Director of the Michigan Office of Drug Abuse.

Following the 1990 Michigan elections, Mr. McLellan was named Transition Director to then Governor-elect John Engler. In that capacity, he assisted in the formation of Governor Engler's Administration and conducted a review of state programs. He was also appointed by the Governor as Chairman of the Corrections Commission, a member of the Michigan Export Development Authority, a member of the Michigan International Trade Authority, a member of the Library of Michigan Board of Trustees, a member of the Michigan Jobs Commission, a member of the McPherson Commission on Charter Schools, and Chairperson of the Michigan Film Advisory Commission.

During the administration of President Gerald Ford, Mr. McLellan served as an advisor to the Commissioner of the Food and Drug Administration and as a member of the National Advisory Food and Drug Committee of the U.S. Department of Health, Education, and Welfare.

In 1990, Mr. McLellan was appointed by President George Bush as a Presidential Observer to the elections in the People's Republic of Bulgaria. The elections were the first free elections in the country following 45 years of Communist rule. In 1996, he again acted as an observer for the Bulgarian national elections. And again, in February 1999, he acted as an observer for the Nigerian national elections with the International Republican Institute.

Mr. McLellan is a member of the Board of Governors of the Cranbrook Institute of Science, one of Michigan's leading science museums. He helped establish and served for ten years as President of the Library of Michigan Foundation. He helped establish and served as both President and Chairman of the Michigan Japan Foundation, the private foundation providing funding for the Japan Center for Michigan Universities.

Mr. McLellan has served as a member of the Board of Trustees of Michigan State University Detroit College of Law and is a member of the Advisory Board for MSU's James H. and Mary B. Quello Center for Telecommunication Management and Law. He also serves as an adjunct professor in MSU's College of Communications Arts.

Mr. McLellan is a former Chairman of the Board of Directors of the Michigan Chamber of Commerce and is a member of the Board of Directors of the Mackinac Center for Public Policy, the Oxford Foundation, and the Cornerstone Foundation.

Mr. McLellan served as a member of the Board of Directors of the Mercantile & General Life Reassurance Company of America and the Crown America Life Insurance Company. He also served as Chairman of the Michigan Competitive Telecommunications Providers Association and as Chairman of the Information Technology Association of Michigan.

Mr. McLellan has been active in matters concerning persons with disabilities. He is a former President of the Arthritis Foundation, Michigan Chapter, a former member of the National Advocacy Committee of the Arthritis Foundation, and a former member of the National Research Committee, Arthritis Foundation.

He is a graduate of the Michigan State University Honors College and the University of Michigan Law School. He has served as an adjunct professor of international studies at Michigan State University.

ANTHONY DEREZINSKI

Mr. Derezinski is Vice Chairperson of the Michigan Law Revision Commission, a position he has filled since May 1986 following his appointment as a public member of the Commission in January of that year.

Mr. Derezinski served for four years as a Councilmember of the Ann Arbor City Council to which he was elected in November of 2008. He was also an Instructor at the University of Michigan School of Education where he taught courses in various aspects of education law. He is the former Director of Government Relations for the Michigan Association of School Boards from which he retired in 2008. He also previously served as an adjunct professor of law at the University of Michigan Law School and at the Department of Education Administration of Michigan State University, and previously was a visiting professor of law at the Thomas M. Cooley Law School.

He is a graduate of Muskegon Catholic Central High School, Marquette University, the University of Michigan Law School (Juris Doctor degree), and Harvard Law School (Master of Laws degree). He is married and resides in Ann Arbor, Michigan.

Mr. Derezinski is a Democrat and served as a State Senator from 1975 to 1978. He was a member of the Board of Regents of Eastern Michigan University for 14 years, served on the Committee of Visitors of the University of Michigan Law School, and was a member of the Council of the Center for the Education of Women in Ann Arbor. He also served on the Foundation Board of Hospice of Ann Arbor and as a Judge and Chief Judge of the Michigan Military Appeals Tribunal. He currently serves on the Boards of Directors of Washtenaw Literacy and of the Evangelical Homes of Michigan Foundation.

He served as a Lieutenant in the Judge Advocate General's Corps in the United States Navy from 1968 to 1971 and as a military judge in the Republic of Vietnam. He is a member of the Veterans of Foreign Wars, Derezinski Post 7729, the American Legion Department of Michigan, and the Vietnam Veterans of America. He is also a Life Member of the Harley Owners' Group.

BRIAN A. LAVICTOIRE

Brian LaVictoire is a public member of the Michigan Law Revision Commission and was appointed to the Commission in January 2019. He is the Deputy General Counsel for Investments and Compliance for the Municipal Employees' Retirement System of Michigan (MERS). Mr. LaVictoire advises the organization on all legal matters pertaining to MERS' \$11 billion portfolio, including reviewing, drafting, and negotiating various contracts pertaining to MERS' investments in both public and private markets. Mr. LaVictoire also assists MERS in maintaining its compliance with applicable state and federal laws and regulations.

Before coming to MERS, Mr. LaVictoire was an Assistant Attorney General for the Michigan Department of Attorney General where his practice focused on advising the State regarding its administration of the various state retirement systems and representing the State in all stages of litigation involving the systems. He also represented the State in complex multi-million-dollar construction contract litigation.

Mr. LaVictoire was one of the founding attorneys of McLellan Law Offices, PLLC, a boutique law practice led by Richard McLellan, the former managing member of Dykema Gossett's Lansing Office and one of the most prominent and respected lawyers in Michigan.

Before earning his law degree, Brian worked in the Michigan Legislature as a caucus liaison and regional field representative for the House Republican Caucus under then-Speaker Craig DeRoche.

He graduated from Michigan State University's James Madison College with a B.A. in Political Theory & Constitutional Democracy, and graduated magna cum laude from Michigan State University College of Law.

Mr. LaVictoire is a member of the State Bar of Michigan, the Institutional Limited Partners Association, the Association of Corporate Counsel, as well as the National Association of Public Pension Attorneys.

He lives in DeWitt, Michigan, with his wife, Jennifer, and their two boys, Carter and Emmett.

GEORGE E. WARD

Mr. Ward is a public member of the Michigan Law Revision Commission and has served since his appointment in August 1994.

Mr. Ward was the Chief Assistant Prosecuting Attorney in Wayne County in the administration of the Honorable John D. O'Hair. Earlier in his career, he clerked for Justice Theodore Souris of the Michigan Supreme Court and for 20 years was in private civil practice in the City of Detroit. In 2001, Mr. Ward returned to private practice in Wayne County.

He is a graduate of the University of Detroit and the University of Michigan Law School. He and his wife, Margaret, parents of five adult children and grandparents of nine, live in Canton.

Mr. Ward is an Adjunct Professor at Michigan State College of Law, Wayne State University Law School, and the University of Detroit Mercy School of Law, and a Wayne County Public Administrator. He is a board member of Community Social Services of Wayne County; a consultant to the Macomb County Home Rule Charter Commission in 2008; past President of the Incorporated Society of Irish American Lawyers; a former President of the Board of Control of Saginaw Valley State University; a

former commissioner of the State Bar of Michigan; the former President of the Wayne County Home Rule Charter Commission; the former Executive Secretary of the 1971-1972 City of Detroit Charter Revision Commission; and a former member of the Board of Directors of Wayne Center.

RYAN BERMAN

State Representative Ryan Berman is a legislative member of the Michigan Law Revision Commission and has served on the Commission since January 2019. He was first elected to serve the 39th District in the Michigan House of Representatives in November 2018, representing the residents of the city of Wixom, Commerce Township, a portion of West Bloomfield Township, and the village of Wolverine Lake.

Representative Berman serves as vice chair on the House Regulatory Reform Committee, and is a member of the Financial Services, Insurance, and Judiciary committees.

Representative Berman is a graduate of Detroit Country Day School, Michigan State University and Wayne State University Law School.

He is an attorney and counselor at law, with a general practice in Bloomfield Hills. As a general practice attorney, Representative Berman works on issues ranging from international business and real estate to criminal law; he also acts as general counsel and legal advisor to many small businesses. Representative Berman is currently a reserve police officer, and previously served as a reserve deputy with the Oakland County Sheriff's Office.

He and his wife, Stacie, have been married for 15 years and have two daughters.

BRIAN K. ELDER

State Representative Brian Elder is a legislative member of the Michigan Law Revision Commission and has served since February of 2017. He is serving his second term representing the 96th House District, which includes the cities of Bay City and Essexville and Bangor, Frankenlust, Hampton, Kawkawlin, Merritt, Monitor and Portsmouth townships in Bay County. Representative Elder is serving as the Democratic Vice Chair on the Agriculture Committee for the second time, along with serving as a member of the Judiciary Committee. Representative Elder was reappointed to the Michigan Law Revision Commission for a second term and is the Chair and Co-Founder of the Michigan Legislative Labor Caucus.

Representative Elder comes from three generations of autoworkers and is the first member of his family to attend college, having worked his way through Wayne State University, graduating Summa Cum Laude and Phi Beta Kappa with a bachelor's degree in history. He graduated from the UCLA School of Law earning a Juris Doctorate, with honors in Property Law and Oral Advocacy.

Representative Elder has practiced law in Mid-Michigan since 1998 and currently owns Brian K. Elder, P.L.C., a general civil law practice. He has represented dozens of municipalities over his career, as well as labor unions, union members and individuals in the areas of estate planning and elder law.

Representative Elder served eight years as a Bay County Commissioner and served as the Chairman of the Bay County Board of Commissioners. As a County Commissioner, Representative Elder was an acknowledged leader in economic development, creating and Chairing Bay Future, Inc., Bay County's

premiere public-private economic development partnership. He was Bay County's lead negotiator on the Fabiano Bros. multi-million-dollar facility project that resulted in the expansion of the Monitor DDA and led to an additional \$400,000.00 of tax revenue per year to local Bay County governments.

Of course, Representative Elder's favorite accomplishment as a County Commissioner may be the creation of "Central Bark", Bay County's only dog park.

Representative Elder lives in Bay City and is married to Susan Elder, a German teacher at Bay City Central High School and Handy Middle School. They have three children in the Bay City Public School System.

PETER J. LUCIDO

Senator Peter J. Lucido is a legislative member of the Michigan Law Revision Commission and has served on the Commission since January 2015. He was elected to serve the people of the 8th Senate District in November of 2018 and was previously elected in November of 2014 and reelected in 2016 to serve the residents of the 36th House District. He currently represents parts of Macomb County including Shelby, Washington, Bruce, Ray, Lenox, Chesterfield, and Harrison townships; the villages of Romeo and New Haven; and the cities of Utica, Mt. Clemens, St. Clair Shores, and part of Grosse Point Shores.

Senator Lucido now serves as chair of the Committee on Judiciary and Public Safety, chair of the Joint Committee on Administrative Rules, vice chair of Committee on Oversight, and a member on the Committee on Elections and Ethics. He also serves as a member of the Michigan Criminal Justice Policy Commission, Michigan Law Revision Commission, Michigan Commission on Uniform State Laws, and Michigan Elder Abuse Task Force.

He earned a Juris Doctorate from Detroit College of Law (now Michigan State University School of Law), a Master of Business Administration from Central Michigan University, a bachelor's degree in Public Administration and Business from Oakland University, and an associate degree from Macomb Community College.

Senator Lucido practiced law for more than 30 years and was the founder, president and managing partner of one of Macomb County's largest law firms. He is the founder and publisher-emeritus of *Macomb Now Magazine*. Additionally, he is a licensed attorney, insurance agent, and realtor, and was formerly a licensed security register representative.

Senator Lucido has been involved in the community as a member of the Knights of Columbus, Macomb County Chamber of Commerce, Shelby Golden K Kiwanis, Greater Romeo-Washington Chamber of Commerce, Michigan Farm Bureau, Italian American Cultural Center, Italian American Chamber of Commerce, De La Salle Collegiate Board of Trustees, De La Salle Pilot Bar Association, Oakland University Presidents Council, and a former board member and current Ambassador Club member for Henry Ford Macomb Hospitals (formerly known as St. Joseph Mercy Macomb).

He and his wife have been married for more than 25 years and have three children.

STEPHANIE CHANG

Senator Stephanie Chang is a legislative member of the Michigan Law Revision Commission and has served on the Commission since January 2019. Senator Chang, the first Asian American woman to be elected to the Michigan Legislature, worked as a community organizer in Detroit for nearly a decade before serving two terms in the Michigan House of Representatives. She was elected to the Michigan House of Representatives in November 2014 and reelected in 2016 and was first elected to serve the people of the 1st Senate District in November 2018. She currently represents part of Wayne County including Detroit City, Ecorse City, Gibraltar City, Grosse Ile Township, River Rouge City, Riverview City, Trenton City, Woodhaven City, Wyandotte City, and Brownstown Township (part).

Senator Chang now serves as minority vice chair of the Finance Committee, minority vice chair of the Judiciary and Public Safety Committee, and serves on the Government Operations Committee. She was elected Democratic Floor Leader in 2019 and currently is a member of the Legislative Council.

She served as state director for NextGen Climate Michigan, alumni engagement and evaluation coordinator for the Center for Progressive Leadership in Michigan, deputy director for the Campaign for Justice and as an organizer for Michigan United/One United Michigan. She also worked as a community engagement coordinator for the James and Grace Lee Boggs School and assistant to Grace Lee Boggs, an activist, writer, and speaker.

Senator Chang also is a co-founder and past president of Asian and Pacific Islander American Vote-Michigan, and she served as a mentor with the Detroit Asian Youth Project.

In the state House, Senator Chang led the way on air quality protection, education, criminal justice reforms, improving economic opportunities, and affordable, safe drinking water. She passed bipartisan legislation on a range of issues including female genital mutilation, nitrous oxide “whip-its”, reentry services for wrongfully convicted individuals who were exonerated, and more. She quickly earned her colleagues’ respect and was named chair of the Progressive Women’s Caucus in her second term. She also served on the leadership team for the House Democratic Caucus both terms and was a co-founder of the Asian Pacific American Legislative Caucus.

Senator Chang earned her bachelor’s degree in psychology and master’s degrees in public policy and social work from the University of Michigan. She lives in Detroit with her husband, Sean Gray, and two young daughters.

JENNIFER DETTLOFF

Jennifer Dettloff has served as an ex officio member of the Michigan Law Revision Commission since her appointment as the Legislative Council Administrator on November 9, 2016. As Legislative Council Administrator, she is responsible for the supervision and oversight of the following agencies: Legislative Service Bureau, Legislative Corrections Ombudsman, Michigan Veterans’ Facility Ombudsman, Criminal Justice Policy Commission (staff), Joint Committee on Administrative Rules (staff), Michigan Law Revision Commission, State Drug Treatment Court Advisory Committee, and the Michigan Commission on Uniform State Laws.

Prior to being appointed to the Legislative Council, Ms. Dettloff served as Legal Counsel for two Senate Majority Leaders. She had previously served legislators in both the House and Senate in numerous capacities.

Ms. Dettloff is a member of the State Bar of Michigan. She holds a B.A. from James Madison College at Michigan State University in Social Relations and a J.D. from Thomas M. Cooley Law School.

Ms. Dettloff and her husband, Robert Snyder, live in Williamston, Michigan with their triplets, Madeline, Jack, and William.

JANE O. WILENSKY

Jane O. Wilensky was an Assistant Attorney General from 1984 until 2008, serving in the Finance and Development and Education and Social Services Divisions. From 1997 until 2008, she was the First Assistant in the Education and Social Services Division. Prior to her appointment as an Assistant Attorney General, she worked in the Office of Strategy and Forecasting in the Department of Commerce and the Office of Regulatory and Consumer Affairs in the Michigan Public Service Commission. She was a law clerk for the Honorable John W. Fitzgerald of the Michigan Supreme Court. In 2011, she was appointed Executive Secretary of the Commission.

Ms. Wilensky is a graduate of Boston University's School of Public Communications and received her J.D. Cum Laude from the Thomas M. Cooley Law School.